

BEST AVAILABLE COPY

173,298



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/172,298	10/14/98	RHODES	H M4065.101/P1

THOMAS J D'AMICO
DICKSTEIN SHAPIRO MORIN AND OSHINSKY
2101 L STREET NW
WASHINGTON DC 20037-1526

MM21/0831

EXAMINER	
MUNSON, G	
ART UNIT	PAPER NUMBER
2811	11

DATE MAILED: 08/31/00

Below is a communication from the EXAMINER in charge of this application

COMMISSIONER OF PATENTS AND TRADEMARKS

ADVISORY ACTION

☒ THE PERIOD FOR RESPONSE:

- a) ☒ is extended to run FOUR MONTHS or continues to run _____ from the date of the final rejection
- b) ☐ expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

☐ Appellant's Brief is due in accordance with 37 CFR 1.192(a).

☒ Applicant's response to the final rejection, filed 18 August 2000 ^{do hereby} has been considered with the following effect, but it is not deemed to place the application in condition for allowance:

1. ☒ The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:
- a. ☒ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
 - b. ☒ They raise new issues that would require further consideration and/or search. (See Note).
 - c. ☐ They raise the issue of new matter. (See Note).
 - d. ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
 - e. ☐ They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: e.g., proposed claim 120 of new scope.

2. ☐ Newly proposed or amended claims _____ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.

3. ☒ Upon the filing an appeal, the proposed amendment ☐ will be entered ☒ will not be entered and the status of the claims will be as follows:

Claims allowed: _____

Claims objected to: _____

Claims rejected: 1-39, 31-39, 40-63, 65, 66, 115-124

However:

☐ Applicant's response has overcome the following rejection(s): _____

4. ☒ The ~~affidavit~~ ^{request} for reconsideration has been considered but does not overcome the rejection because contrary to the response (p.5-6), silicon nitride has a higher dielectric constant than silicon oxide, and Nagasaki et al., would have suggested use of an "insulating layer" with a higher dielectric constant than silicon oxide.

5. ☐ The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented.

☒ The proposed drawing correction ☒ has ☐ has not been approved by the examiner.

☒ Other It filed separately, proposed cancellation of claims 5, 6, 16, 17, 24, 62-70 and proposed amendment to claim 34 would be entered. The proposed amendment to claim 34 would overcome the rejection based on 35 USC 112, second paragraph.

PTOL-303 (REV. 5-89)

Gene M. Munson
GENE M. MUNSON
EXAMINER
GROUP ART UNIT 2811